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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,910	07/08/2003	Harald Schaty	0275M-000754	7919
27572	7590	11/30/2004		
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EXAMINER				
MITCHELL, KATHERINE W				
ART UNIT		PAPER NUMBER		
3677				

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/614,910	Applicant(s) SCHATY, HARALD	
	Examiner Katherine W Mitchell	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2004.  
 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.  
     4a) Of the above claim(s) 15-22 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-14 and 23-38 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 08 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:  
         1. ☒ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of the restriction between groups 2 and 3 in the reply filed on 9/1/2004 is acknowledged. The traversal is on the ground(s) that the search is not burdensome, and the adhesive feature generically covers both groups – ribs and no ribs. After a phone conversation on 11/2/04, examiner believes applicant clarified that the ribs are an obvious variant, and thus all the claims directed toward a fastener with adhesive (groups 2 and 3) will be examined.

If applicant does not consider the ribs an obvious variant, then the restriction remains, but applicant is reminded that if Claim 1 is found generic and allowable, the restriction requirement as to the encompassed species will be hereby withdrawn and claim 7-8, directed to the species having ribs will no longer be withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

No specific traversal was made with respect to group 1, and thus the requirement is still deemed proper and is therefore made FINAL.

Applicant is reminded to change the status identifier of claims 7 and 8 to "original" in the next amendment.

### ***Drawings***

1. All drawings must be identified as to the type of view – i.e, plan view, top view, side view, or cross-sectional view. Sectional views in particular should conform to the drawing requirements:

*Views . The drawing must contain as many views as necessary to show the invention. The views may be plan, elevation, section, or perspective views. Detail views of portions of elements, on a larger scale if necessary, may also be used. All views of the drawing must be grouped together and arranged on the sheet(s) without wasting space, preferably in an upright position, clearly separated from one another, and must not be included in the sheets containing the specifications, claims, or abstract. Views must not be connected by projection lines and must not contain center lines.*

*Sectional views The plane upon which a sectional view is taken should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight. Hatching must be used to indicate section portions of an object, and must be made by regularly spaced oblique parallel lines spaced sufficiently apart to enable the lines to be distinguished without difficulty. Hatching should not impede the clear reading of the reference characters and lead lines. If it is not possible to place reference characters outside the hatched area, the hatching may be broken off wherever reference characters are inserted.*

Applicant is referred to MPEP 608.02 for drawing requirements.

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "6", "13", "16" in Fig 1 do not correlate to "13" and "16" in Fig 2.
2. Also, throughout the specification, "1" is the insert, and "2" is the sleeve, but Figs. 8 and 9 A have "1" pointing to the sleeve rather than the entire insert. Figs. 2 and 6 more correctly identify the sleeve and insert. A proposed drawing correction or

corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. Fig. 1 is described as "a section I-I of an insert...", and Fig. 2 is described as "section II-II of the insert part according to Fig. 1". However, there are no cut lines showing what I-I and II-II are, and nothing in Fig. 2 relates it as a view of Fig. 1. Figs. 4 and 9 appear to be sectional views with no description or reference to cut lines or what figures were cut to obtain the views. Similarly, Fig. 5 is described as "a section I-I of an insert according to the invention...", without showing or describing which Figure and the cut lines on which it is based. Similarly, Fig 6 is described as "a section II-II of the insert part according to Fig. 5" and Fig 5 has no cut lines II-II. Fig. 8 appears to be a sectional view, and refers to Fig 5, but does not refer to or show section lines.

4. Figs. 7 and 8 are described as views of the insert of Fig 5. Both Fig 7 and 8 show the catches(8), but there are no catches shown as existing in Fig. 5.

5. Fig 10 appears to be a side view incorporating a sectional view of the flange with adhesive ring 17. Cut and sectional lines and descriptions are required.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The

amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

7. The disclosure is objected to because of the following informalities:

- As discussed in the section "**DRAWINGS**" above, the brief descriptions of Figs. 1,2,5,6,7, 8 and 9 do not accurately describe the respective figures. In particular, section lines appear to be required and are missing.
- On page 15, paragraph [0047] line 2, rib-like projections 4 is incorrect. "4" has been described as the circular flange. Rib-like projections are elsewhere referred to as "43".

Appropriate correction is required.

#### ***Claim Objections***

8. Claims 1,3,4 are objected to because of the following informalities: The claims disclose "an installation position", which would mean a position suitable for installation. The claims indicate that the limitations arise only when the insert is installed, and thus -- an installed position-- is correct, as "an installation position" does not require that the insert be installed. Appropriate correction is required.

9. Claim 4 discloses that the edge of the flange is pressed into contact, but does not state with what the edge is pressed into contact.

10. Claim 5 recites "at least two spring catches each having an entry incline and a bearing surface, the entry incline operatively compressing the catches..." Each entry incline compresses only its respective catch. Also, since there are at least two bearing surfaces (one per spring catch) applicant should refer to **each** bearing surface, not **the** bearing surface. Reference to "the entry incline" and "the bearing surface" after recitations of at least two bearing surfaces and two entry inclines results in insufficient antecedent basis for these limitations in the claim.

11. Claim 6 has the catches integrated into without disclosing into what.

12. Claim 7 discloses "rib-like" projections. The phrase "or the like" or "-like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

13. Claim 11 includes outer and inner wall segments, without any reference to what direction or plane or point defines in or out. Examiner assumes inner is relative to a central axis thru the insert.

14. Claim 27 appears to misspell —integrally—in line 3 as "integrably".

***Claim Rejections - 35 USC § 112***

15. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

16. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13 line 3 recites "the bore" without antecedent basis.

Examiner assumes the bore is that referred to in claim 9 – formed thru the neck and flange to accommodate a fastening element.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1- 9 and 23-24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews USP 4363420 in view of Dalla, FR 2573162.

Re claim 1 and 23 and 28: Andrews teaches in Figs 1-4, the abstract, and col 1 lines 10-29, col 3 line 67 –col 4 line 7, col 3 line 34-41, and col 3 lines 4-11 and 45-56 a vehicle insert part system comprising:

- A vehicle body wall (17, and col 1 lines 10-29) having an opening (18) and a marginal position (col 3 line 67 –col 4 line 7), and an insert part including:
  - A neck adapted to pass thru the opening (4a, 4b, 4c)
  - A flange (3) arranged on the neck with an underside that covers the marginal wall portion, the flange further including:
    - A depression (concavity) bounded by elevated circumferential edge on outside (Figs 3 and 4)
    - A plastic body (15, col 3 line 34-41) capable of being brought into a flowable state arranged in the depression and



- A retainer (retaining legs 5a,5b, 5c having ledge 13, col 3 lines 4-11 and 45-56) operable to secure the insert part in the wall opening.
- Wherein the circumferential edge is operatively pressed into contact with the wall when the insert part is secured in the opening of the wall by the retainer (Fig 4, col 3 line 67 –col 4 line 7).

However, Andrews does not teach that the plastic body is completely accommodated in within the depression. Dalla teaches in the translated abstract and Figs 1-2 an insert system with a concave flange (3) arranged on the neck (29) of said fastener completely accommodating a plastic body (7) capable of flowing. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Andrews and Dalla before him at the time the invention was made, to modify Andrews as taught by Dalla to include containment of the plastic body in the depression, in order to obtain an insert which cannot easily have the plastic body ruptured or damaged until after the system is in the installed position and pressure is applied. One would have been motivated to make such a combination because better control of the sealant would have been obtained, as the sealant would not flow or deform until the concavity was deformed by insertion pressure. Further, insertion pressure would result in deformation and tightening of the seal between the flange edge and the marginal wall, so that the sealant would always be protected by the concavity outer structure.

Examiner notes that while Andrews is specific on having the plastic body outside concavity, Andrews teaches that it is known to have fastener insert system with the

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plastic body/sealant restricted to the panel upper surface and normally between the upper surface and a flange portion of the plug which overlies the surface in certain applications, so the combination does not destroy the reference, but merely broaden it.

Re claims 2 and 24: Fig 4 and col 3 line 63 – col 4 line 15 teach the operative deformity of the flange.

Re claims 3-4 The retainer feature (13 on 5a, 5b, 5c – plurality of spring elements) is shown in Fig 5 as securing the insert in the wall and described in col 2 lines 44-50, which will inevitably result in the flange having an elastically deformed circumferential edge when inserted and clamped, which describes the bearing and compression.

Re claims 5-6: As best understood by examiner, Fig 4 shows the neck 4a having catches integrated [8, col 3 lines 17-26] since there are 3 neck portions (4a, 4b, and 4c), there will be 3 catch portions (a catch 8 on each of 4a, 4b, and 4c neck portions ). The neck is plastic (col 4 lines 48-50) and plastic is elastically deformable to some extent, as it would inevitably be for the plug to Andrews to work. Fig 4 shows the entry incline surface and bearing surface of 8 at the left edge of aperture 18.

Re claims 7-8: Fig 4 shows the neck 4a having catches which can be considered rib-like [8, col 3 lines 17-26] since there are multiple neck portions (4a, 4b, and 4c), there will be multiple rib-like portions (a catch 8 on each of 4a, 4b, and 4c neck portions. Examiner notes that “rib-like” is unclear but considers the ridge/catch to be rib-like.

Re claim 9: Neck 4a has a shank extending away from the flange. A bore is **formable** through the neck and flange – one can drill a hole thru the plastic body 2.

However, examiner is providing an alternate rejection assuming applicant means "formed".

19. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews USP 4363420 in view of Dalla, FR 2573162 as applied above and further in view of Eberhard EP0675295. As discussed above, Andrews in view of Dalla teach all the elements except a closed free end of the shank and a bore formed in the flange and neck, as Andrews is concerned with a plug for a surface hole. Eberhard teaches an insert part having a shank with a closed free end and a bore through the neck and flange in Fig 1. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Andrews in view of Dalla and also Eberhard before him at the time the invention was made, to modify Andrews as taught by Dalla to further include a shank with a closed free end and a bore formed in the flange, in order to obtain an insert that can accommodate a fastener. One would have been motivated to make such a combination because the fastener would allow additional components to be attached, and the insert would allow the panels to have uniform holes and the insert bore could be sized according to the attachment requirements, which would reduce manufacturing costs by allowing standardized panel apertures to be used in connections.

Further re claim 11: Eberhard teaches in Fig 3 and 5 and neck with a polygon or square cross-sectional shape.

20. Claims 12-14 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews USP 4363420 in view of Dalla, FR 2573162 as applied above and further in view of Miura USP 6481682.

Re claims 12-14: As discussed above, Andrews in view of Dalla teach all the elements except a square cross sectional contour forming a plurality of walls, a plurality of catches and recesses on walls subdivided by recesses into outer springing wall segments and inner wall segments. As best understood by examiner, Fig 2 of Miura shows a square cross sectional contour forming a plurality of walls. Miura teaches recesses 35 adjacent the aperture forming a plurality of outward projecting catches from 2 opposed walls. Each wall with catches is subdivided by recesses into an outer springing wall (34A ) and an inner wall segment (24A). Each inner wall forms one of a plurality of spring tongues 34A extending in the direction of the bore (20?), with a radial slot opening into each of the recesses laterally freeing each of the spring tongues. The plurality of walls includes wall (26b) lacking catches, said walls comprising rigid walls. 26B is considered rigid relative to the walls with catches. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Andrews in view of Dalla and also Miura before him at the time the invention was made, to modify Andrews as taught by Dalla to further include recesses adjacent the aperture forming a plurality of catches, wherein slots in the recesses free the catches to form spring tongue elements, in order to obtain an insert that more strongly resists removal when in use, as the spring element displacement serves to further hold the insert in the aperture. One would have been motivated to make such a combination because the spring action would allow flexibility to resist breaking while ensuring a tight insertion. Further , some walls without catches add strength and resist torquing, which would be important in inserts accepting fasteners.

Re claims 25-27: As discussed above, Andrews in view of Dalla teach all the elements except recesses adjacent the aperture forming a plurality of spring elements operable when displaced to generate a force against the neck. Miura teaches recesses 35 adjacent the aperture forming a plurality of spring elements 34A operable when displaced to generate a force against the neck in Fig 2 and 3a-3c and col 5 lines 6-29 . Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Andrews in view of Dalla and also Miura before him at the time the invention was made, to modify Andrews as taught by Dalla to further include recesses adjacent the aperture forming a plurality of spring elements operable when displaced to generate a force against the neck, in order to obtain an insert that more strongly resists removal when in use, as the spring element displacement serves to further hold the insert in the aperture. One would have been motivated to make such a combination because the spring action would allow flexibility to resist breaking while ensuring a tight insertion.

Further Re claim 26: Fig 2 shows the spring catch with an entry incline and a bearing surface (37A parallel to 30A) working as disclosed.

Further Re claim 27: The spring catches are shown integrally connectable to an elastically deformable wall segment 24A in Fig 2.

### **Conclusion**

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

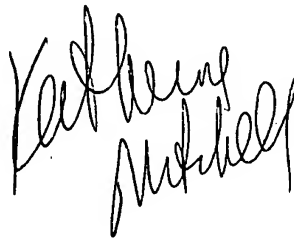
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22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kwm  
11/24/2004

A handwritten signature in cursive script, appearing to read "Katherine W Mitchell".